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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-909]

Certain Steel Nails from the People's Republic of China: Amended Final Results of the Third Antidumping Duty Administrative Review; 2010-2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2243.

SUPPLEMENTARY INFORMATION:

Background

On March 18, 2013, the Department of Commerce ("Department") published the final results of the third administrative review of the antidumping duty order on certain steel nails from the People's Republic of China ("PRC").¹ On March 13, 2013, Hongli et al.² filed timely allegations that the Department made ministerial errors in the Final Results and requested, pursuant to 19 CFR 351.224, that the Department correct the alleged ministerial errors. No other party in this proceeding submitted comments on the Department's final margin calculations.

¹ See Certain Steel Nails From the People's Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2010–2011, 78 FR 16651 (March 18, 2013), and accompanying Issues and Decision Memorandum ("Final Results").

² Itochu Building Products Co., Inc., Tianjin Jinghai County Hongli Industry & Business Co., Ltd. ("Hongli"), Certified Products International Inc. ("CPI"), China Staple Enterprise (Tianjin) Co., Ltd. ("China Staple"), Chiieh Yung Metal Ind. Corp., CYM (Nanjing) Nail Manufacture Co., Ltd., Qidong Liang Chyuan Metal Industry Co., Ltd. ("Qidong Liang Chyuan") and Hengshui Mingyao Hardware & Mesh Products Co., Ltd. ("Hengshui Mingyao") (collectively Hongli et al.).

Scope of the Order

The merchandise covered by the order includes certain steel nails having a shaft length up to 12 inches. Certain steel nails subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 7317.00.55, 7317.00.65 and 7317.00.75. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.³

For a full description of the scope, see Ministerial Error Memorandum⁴ at page 2.

Amended Final Results of the Review

The Tariff Act of 1930, as amended (“Act”), defines a “ministerial error” as including “errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.”⁵ As explained in the Ministerial Error Memorandum accompanying this notice, in accordance with section 751(h) of the Act, and 19 CFR 351.224(e), we have determined that we made a ministerial error in the calculation of Hongli’s Final Results margin calculation with regard to the classification of certain surrogate financial data. We note that correcting this error changes the weighted-average margins for Hongli, as well as the separate rate companies from the Final Results. In addition, the Final Results inadvertently reported a separate rate margin for CPI and China Staple, although we

³ See Notice of Antidumping Duty Order: Certain Steel Nails From the People’s Republic of China, 73 FR 44961 (August 1, 2008).

⁴ See Memorandum to Gary Taverman, from James C. Doyle, regarding “Third Antidumping Duty Administrative Review of Certain Steel Nails from the People’s Republic of China: Ministerial Error Allegations Memorandum,” dated concurrently with this notice (“Ministerial Error Memorandum”). This memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). Access to IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Ministerial Error Memorandum is available on the web at <http://ia.ita.doc.gov/frn/index.html>. The signed Ministerial Error Memorandum and the electronic versions of the Ministerial Error Memorandum are identical in content.

⁵ See section 751(h) of the Act; see also 19 CFR 351.224(e).

rescinded the review of these two companies.⁶ For a detailed discussion of these ministerial errors, as well as the Department’s analysis of the allegations of ministerial errors, see the Ministerial Error Memorandum. As discussed in the Ministerial Error Memorandum, the review is rescinded for CPI and China Staple.

Disclosure

We will disclose the calculations performed for these amended final results within five days of the date of publication of this notice to interested parties in accordance with 19 CFR 351.224(b).

Amended Final Results of the Review

The weighted-average dumping margins for the period of review (“POR”) are as follows:

| Manufacturer/Exporter | Weighted Average Margin (Percent) |
|--|-----------------------------------|
| 1) Tianjin Jinghai County Hongli Industry & Business Co., Ltd. | 33.25 |
| 2) Cana (Tianjin) Hardware Industrial Co., Ltd. | 33.25 |
| 3) Shanghai Curvet Hardware Products Co., Ltd. | 33.25 |
| 4) Huanghua Jinhai Hardware Products Co., Ltd. | 33.25 |
| 5) Shanxi Tianli Industries Co., Ltd. | 33.25 |
| 6) Shanghai Jade Shuttle Hardware Tools Co., Ltd. | 33.25 |
| 7) Shandong Dinglong Import & Export Co., Ltd. | 33.25 |
| 8) Tianjin Jinchi Metal Products Co., Ltd. | 33.25 |

⁶ The Department notes that it rescinded the review for the following companies in the final results: 1) Jining Huarong Hardware Products Co., Ltd.; 2) Chiieh Yung Metal Ind. Corp.; 3) CYM (Nanjing) Nail Manufacture Co., Ltd.; 4) Qidong Liang Chyuan; 5) CPI; 6) Besco Machinery Industry (Zhejiang) Co., Ltd.; 7) China Staple; 8) Zhejiang Gem-Chun Hardware Accessory Co., Ltd.; 9) PT Enterprise Inc.; 10) Shanxi Yuci Broad Wire Products Co., Ltd.; 11) Hengshui Mingyao; and 12) Union Enterprise (Kunshan) Co., Ltd. (collectively “No Shipment Respondents”). See Final Results, 78 FR at 16652.

| | |
|---|--------|
| 9) Huanghua Xionghua Hardware Products Co., Ltd. | 33.25 |
| 10) Tianjin Zhonglian Metals Ware Co., Ltd. | 33.25 |
| 11) Shanghai Yueda Nails Industry Co., Ltd. | 33.25 |
| 12) Hebie Cangzhou New Century Foreign Trade Co., Ltd. | 33.25 |
| 13) Zhaoqing Harvest Nails Co., Ltd. | 33.25 |
| 14) Mingguan Abundant Hardware Products Co., Ltd. | 33.25 |
| 15) Nanjing Yuechang Hardware Co., Ltd. | 33.25 |
| 16) S-Mart (Tianjin) Technology Development Co., Ltd. | 33.25 |
| 17) SDC International Australia Pty., Ltd. | 33.25 |
| 18) Shanxi Hairui Trade Co., Ltd. | 33.25 |
| 19) Guangdong Foreign Trade Import & Export Corporation | 33.25 |
| 20) Qingdao D&L Group Ltd. | 33.25 |
| PRC-Wide Rate ⁷ | 118.04 |

Those companies not eligible for a separate rate will be considered part of the PRC-wide entity.

Assessment Rates

The Department will determine, and U.S. Customs and Border Protection (“CBP”) shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of these amended final results of this review. However, on April 9, 2013, the U.S. Court of International Trade issued a preliminary injunction enjoining liquidation of certain entries during the POR

⁷ See Final Results, 78 FR at 16652-16653.

which are subject to the antidumping duty order on certain steel nails from the PRC.⁸

Accordingly, the Department will not issue assessment instructions to CBP for any entries subject to the above-mentioned injunction after publication of this notice.

In accordance with 19 CFR 351.212(b)(1), we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. In these Final Results, the Department applied the assessment rate calculation method adopted in Final Modification for Reviews, i.e., on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.⁹ Where the respondent has reported reliable entered values, we calculate importer- (or customer-) specific ad valorem rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). Where an importer- (or customer-) specific ad valorem rate is greater than de minimis, we will apply the assessment rate to the entered value of the importers'/customers' entries during the POR, pursuant to 19 CFR 351.212(b)(1).

Where we do not have entered values for all U.S. sales to a particular importer/customer, we calculate a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to that importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).¹⁰ To determine whether the duty assessment rates are de minimis, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer- (or customer-) specific ad valorem ratios based on the estimated entered value. Where an importer-

⁸ See Itochu Building Products Co., Inc., et al. v. United States, CIT Court No. 13-00132 dated April 9, 2013.

⁹ See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8103 (February 14, 2012) ("Final Modification for Reviews").

¹⁰ See 19 CFR 351.212(b)(1).

(or customer-) specific ad valorem rate is zero or de minimis, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹¹

For the companies receiving a separate rate that were not selected for individual review, we will assign an assessment rate based on the rate we calculated for the mandatory respondent whose rate was not de minimis, as discussed above. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate. Finally, for those companies for which this review has been rescinded, the Department intends to assess antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the amended final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in the amended final results of review (except, if the rate is zero or de minimis, i.e., less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have a separate rate, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 118.04 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that

¹¹ See 19 CFR 351.106(c)(2).

supplied that non-PRC exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding The Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

Dated: April 17, 2013.

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